

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION

UNITED STATES OF AMERICA                     )  
                                                           )  
                                                           ) v. CASE NO. 1:07-cr-183-WKW  
                                                           )  
RICKEY RANDELL WREX SMITH                 )

**ORDER**

This case is before the court on Defendant Rickey Randell Wrex Smith's ("Smith") unopposed Motion for Continuance on Trial Setting (Doc. # 57). The trial of this case is currently set for September 22, 2008. For the reasons set forth below, the court finds that the trial should be continued pursuant to 18 U.S.C. § 3161(h).

While the grant of a continuance is left to the sound discretion of the trial judge, *United States v. Stitzer*, 785 F.2d 1506, 1516 (11th Cir. 1986), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs.

18 U.S.C. § 3161(c)(1). However, the Act excludes from the 70 day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." § 3161(h)(8)(A).

For the reasons set out in Defendant's unopposed Motion for Continuance on Trial Setting (Doc. # 57), the court finds that the ends of justice served by continuing this trial

outweigh the best interest of the public and Mr. Smith in a speedy trial. In support of his motion to continue trial, Mr. Smith states that his counsel is scheduled to go to trial on September 19, 2008 in Eastland, Texas on a case that commenced prior to this case and is expected to last two weeks. (Doc. # 57 ¶ 2.) The United States does not oppose the continuance.

Accordingly, it is ORDERED that the motion to continue trial (Doc. # 57) filed by Mr. Smith is GRANTED and that the trial of this case is continued from September 22, 2008, to the term of court beginning **January 12, 2009**.

DONE this 4th day of September, 2008.

/s/ W. Keith Watkins  
UNITED STATES DISTRICT JUDGE